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Equality Act Testimony: Foster Care Systems

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The Honorable Richard Durbin  
Chair, Committee on the Judiciary  
U.S. Senate

The Honorable Charles Grassley  
Ranking Member, Committee on the Judiciary  
U.S. Senate

Dear Chair Durbin, Ranking Member Grassley, and Members:

I am a Senior Scholar of Public Policy at the Williams Institute at UCLA School of Law. I have over 15 years' experience working with lesbian, gay, bisexual, and transgender (LGBT) youth as a professor, social scientist, and a direct service provider. I am the lead author of the first representative large scale survey study of foster youth that assessed the role of sexual orientation and gender identity in child welfare outcomes.

I am writing with information for the record of S. 393/H.R. 5, the Equality Act. My and other scholars' research has shown consistently that bias and discrimination within the child welfare and foster care system adversely impact the health and well-being of LGBT youth. Taken together, this research indicates that the Equality Act, which would prohibit discrimination based on sexual orientation and gender identity, has the potential to improve the health and well-being of LGBT people in the United States who have had any contact with the child welfare system.

Only four states have laws against discrimination based on sexual orientation, gender identity, and gender expression in the context of child welfare services, which includes:

- a. outlawing both discriminatory practices in out-of-home placement
- b. prohibiting all adults certified to interact with children in the system (e.g., foster parents and group home workers) from using derogatory terms based on that child's sexual orientation or gender identity or expression.<sup>i</sup>

Unfortunately, we know that this type of discriminatory and biased behavior happens, and it hurts children and youth. Evidence that this type of discrimination exists is seen in a series of studies that have documented the overrepresentation of LGBT youth in out-of-home care and the poor outcomes they experience.

In 2014, my colleagues and I published a study conducted under the Administration of Children & Families Permanency Innovations Initiative.<sup>ii,iii</sup> The purpose of the study was to determine the percentage of Los Angeles County foster youth population who are LGBT, and to document whether their experiences in foster care were different from those of their non-LGBT peers.

- We found that nearly 20 percent of youth ages 12-21 in foster care in Los Angeles were LGBT, which is nearly twice the number of LGBT youth estimated to be living outside of foster care.
- We also found that LGBT youth experienced worse conditions and outcomes in foster care than non-LGBT youth.
  - a. LGBT youth had a higher number of foster care placements and were more likely to be living in a group home, both problems for efforts toward finding permanent homes.
  - b. Over twice as many LGBT youth reported being treated poorly by the foster care system compared to non-LGBT youth, and they were also more likely to have become homeless.
- Further, both the Los Angeles study and two more recent statewide and national studies of LGB youth showed that LGB youth in foster care were more likely to experience psychological distress than non-LGB youth, as well as poor educational outcomes and substance use issues at higher rates<sup>iv</sup>.

Youth across the child welfare system are clearly vulnerable to discrimination and the harmful effects of individual staff biases. At least in states with existing anti-discrimination laws, there is a structure for planning to reduce these disparities and a legal standard against which the state and state-funded entities (e.g., foster care agencies) can be held accountable. However, youth in the majority of the states are especially vulnerable to sanctioned discrimination by state child welfare workers and foster care services.

In the absence of federal law that makes discrimination related to sexual orientation and gender identity in public accommodations and among publically funded entities illegal, we leave almost 90,000 LGBT youth (i.e., 20% of approximately 438,000 in foster care nationwide) without federally supported protections in the course of their care by the state.

Sincerely,



Bianca D.M. Wilson, Ph.D.  
Senior Scholar of Public Policy  
Associate Researcher

<sup>i</sup> See for example Center for the Study of Social Policies, *Out of the Shadows: Supporting LGBTQ Youth in Child Welfare through Cross-System Collaboration*, 2016 <https://www.cssp.org/pages/body/Out-of-the-shadows-current-landscape.pdf>

<sup>ii</sup> Bianca D.M. Wilson, Khush Cooper, Angel Kastanis, Sheila Nezhad, *New Report: Sexual and Gender Minority Youth in Foster Care*, WILLIAMS INST. (Aug. 2014), [https://www.acf.hhs.gov/sites/default/files/cb/pii\\_rise\\_lafys\\_report.pdf](https://www.acf.hhs.gov/sites/default/files/cb/pii_rise_lafys_report.pdf)

<sup>iii</sup> Wilson BDM, Kastanis AA. (2015). Sexual and gender minority disproportionality and disparities in child welfare: A population-based study. *Child Youth Services Review*, 58, doi:10.1016/j.chilyouth.2015.08.016.

<sup>iv</sup> Baams, L., Wilson, B. D. M., & Russell, S. T. (2019). LGBTQ Youth in Unstable Housing and Foster Care. *Pediatrics*, 143(3), e20174211. <http://doi.org/10.1542/peds.2017-4211>; Dettlaff, A. J., Washburn, M., Carr, L. “Christian,” & Vogel, A. “Nikki.” (2018). Lesbian, gay, and bisexual (LGB) youth within in welfare: Prevalence, risk and outcomes. *Child Abuse & Neglect*, 80, 183–193. <http://doi.org/10.1016/J.CHIABU.2018.03.009>